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## United States District Court

For the District of Guam

Guam Contractors Association, et al.

Plaintiffs,

v.

Merrick Garland, Attorney General of the United States, *et al.*,

Defendants

CASE NO. 16-cv-00075

MOTION FOR VOLUNTARY DISMISSAL OF CASE PURSUANT TO FED. R. CIV. P. 23(e)

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## **MOTION FOR VOLUNTARY DISMISSAL**

Plaintiffs filed their First Amended Complaint on December 14, 2016 challenging a purported new policy adopted by Defendants as it applied to "temporary need" for H-2B visa applications. ECF 23. Since that time, new laws have been enacted, and new policies adopted, that render the majority of Plaintiffs' claims moot. See ECF 159 (Discussion of William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 and John S. McCain National Defense Authorization Act for Fiscal year 2019); U.S. Citizenship and Immigration Services, USCIS Policy Manual, Vol. 2, Part I, Ch. 11, available at https://www.uscis.gov/policymanual/volume-2-part-i-chapter-11 (USCIS policy discussing exemptions from H-2B temporary need requirement for petitioners on Guam). Specifically, the National Defense Authorization Act has created exemptions to the necessity of proving temporary need for all military contracts as well as for prime contractors or subcontractors providing services or labor for construction, repairs, renovations, or facility services that are directly connected to, supporting, associated with, or adversely affected by, the military realignment occurring on Guam and the CNMI, with priority given to federally funded military projects; or as a health care worker at a facility that jointly serves members of the U.S. armed forces, dependents, and civilians on Guam or in the CNMI.

The exemption does not apply to other industries that rely on the H2B program such as hospitality, landscaping, education, and other industries. Those employers would still be required to prove temporary need in order to pursue H2B visas.

Through extended settlement discussions, *see* ECF 161 through 180, the parties have agreed that the majority of Plaintiffs' claims are now moot as a result of these new laws and policies. Plaintiffs' counsel identified the following Plaintiff class members whose claims may not have been rendered moot and who did not individually request dismissal from the suit:

1	Mariana Linen and Supply
2	Guam Tropical Dive Station
3	Guam Radiology Consultants
5	Zeniada Zantua Fresh Bread
6	Although they did not request dismissal, Plaintiffs' counsel contacted these remaining Plaintiffs
7	by email, and none of the Plaintiffs was interested in continuing with the litigation and want to
8	dismiss the suit.
10	Therefore, based on the remaining Plaintiffs' desire to dismiss the lawsuit, and pursuant to
11	Fed. R. Civ. P. 23(e)(2), Plaintiffs hereby request this Court to GRANT Plaintiffs' Motion for
12	Voluntary Dismissal. The Parties agree that each side shall bear its own attorneys' fees, expenses,
13	and costs.
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15	Respectfully submitted this 12th day of May, 2022.
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17	<u>/s/ Jeff Joseph</u>
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Plaintiffs' Motion for Voluntary Dismissal

Plaintiffs' Motion for Voluntary Dismissal

## **CERTIFICATE OF SERVICE** I, Jeff Joseph, hereby certify that on May 12th, 2022, I filed the foregoing with the Clerk of Court using the CM/ECF system and have sent notification of such filing to the following email address: Glenn.girdharry@usdoj.gov Respectfully submitted, /s/Jeff Joseph Jeff Joseph Colo. Reg. No. 28695 Berry, Appleman & Leiden, LLP 1900 Wazee Street, Suite 303 Denver, CO 80202 (720) 273-4647 Jjoseph@bal.com Attorney for Plaintiffs